

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MERCK & CO., INC.,)	
)	
Plaintiff,)	
v.)	C.A. No. 06-230 (GMS)
)	
APOTEX, INC.,)	
)	
Defendant.)	
)	

STIPULATION AND PROPOSED ORDER REGARDING EXPERT DISCOVERY

WHEREAS, it was discussed in the telephone conference with the Court on February 9, 2007, that Merck & Co., Inc. and Apotex, Inc. would attempt to stipulate to a proposed procedure that would allow the Court to reach the merits in the event it were to decide that there is subject matter jurisdiction;

WHEREAS the parties are continuing productively to discuss a stipulation for a procedure and proposed judgment that would be entered if the Court were to decide that there is subject matter jurisdiction and that would obviate the need for further discovery;

WHEREAS rebuttal expert reports are currently due on March 5, 2006; and

WHEREAS the parties would like to extend the date for rebuttal expert reports in light of the parties' attempt to reach a broader stipulation and because certain discovery was effectively stayed (including depositions) as discussed in the February 9, 2007 telephone conference;

NOW THEREFORE, IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that:

1. The date by which rebuttal expert reports are due is stayed as of February 9, 2007 pending the parties' agreement on a further stipulation.

2. The parties will provide the Court with a written status report on or before March 13, 2007, at which time the parties will inform the Court whether the parties have reached a broader stipulation and whether the stay proposed by this stipulation should remain in effect.

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Dated: March 1, 2007

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SO ORDERED this ____ day of _____, 2007.

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UNITED STATES DISTRICT JUDGE